

FILED

NOV 28 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BYRON CHAPIN MYERS,

Plaintiff - Appellant,

v.

GENE A. WARD; et al.,

Defendants - Appellees.

No. 04-56235

D.C. No. CV-99-07227-CJC
Central District of California
(Los Angeles)

ORDER

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

The memorandum disposition filed on November 21, 2005 is hereby withdrawn. The case is held in abeyance pending the Supreme Court's decision in *Ngo v. Woodford*, 403 F.3d 620 (9th Cir. 2005), *cert. granted*, – S.Ct. –, 2005 WL 3027720 (U.S. Nov. 14, 2005) (No. 05-416).